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BEFORE THE ARIZONA CORPORATION COMMISSION

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MAR 05 2015

IN THE MATTER OF THE APPLICATION OF)
 ARIZONA PUBLIC SERVICE COMPANY, IN)
 CONFORMANCE WITH THE REQUIREMENTS)
 OF ARIZONA REVISED STATUTES §§ 40-360, et)
 seq., FOR A CERTIFICATE OF)
 ENVIRONMENTAL COMPATIBILITY)
 AUTHORIZING THE TS-5 TO TS-9 500/230 kV)
 TRANSMISSION LINE PROJECT, WHICH)
 ORIGINATES AT THE FUTURE TS-5)
 SUBSTATION, LOCATED IN THE WEST HALF)
 OF SECTION 29, TOWNSHIP 4 NORTH, RANGE)
 4 WEST AND TERMINATES AT THE FUTURE)
 TS-9 SUBSTATION, LOCATED IN SECTION 33,)
 TOWNSHIP 6 NORTH, RANGE 1 EAST, IN)
 MARICOPA COUNTY, ARIZONA.)

DOCKETED BY

DOCKET NO. L-00000D-08-0330-
00138
 POST-HEARING JOINT
 STATEMENT OF POSITION OF
 DIAMOND VENTURES INC. AND
 CITY OF PEORIA IN LIEU OF
 INITIAL BRIEF

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Pursuant to a procedural arrangement discussed and approved by Administrative Law Judge Scott M. Hesla at the end of the January 21 2015 evidentiary hearing in the above-captioned and above-docketed proceeding ("Instant Proceeding"), Diamond Ventures, Inc. ("Diamond Ventures") and the City of Peoria, Arizona ("Peoria") hereby submit their Post-Hearing Joint Statement of Position of Diamond Ventures, Inc. and City of Peoria in Lieu of Initial Brief.

I.

INTRODUCTION

On November 6, 2014, Diamond Ventures submitted a pre-hearing Statement of Position In Lieu of Intervenor Direct Testimony ("Statement of Position") in the Instant Proceeding. In its filing, Diamond Ventures stated that

1 “... as of this juncture, Diamond Ventures takes no position with
2 respect to the four (4) transmission line route modifications to the
3 Certificate of Environmental Compatibility granted by the
4 Commission in Decision No. 70850 which APS requested in its
5 aforesaid July 17, 2014 Application. In addition, as of this
6 juncture, Diamond Ventures takes no position with respect to the
7 extension of the 500 kV circuit and 230 kV circuit construction
8 deadlines requested by APS.” [Statement of Position at page 2,
9 lines 1-6]

6 For the reasons discussed below, Diamond Ventures’ position in the Instant Proceeding
7 continues to be as set forth in its aforesaid November 6, 2014 Statement of Position. That
8 Statement of Position also reflects the position of Peoria as of this juncture as to the matters therein
9 discussed.¹

10 II.

11 DISCUSSION

12 A. Pertinent Background to Decision No. 70850.

13 In Decision No. 70850, the Commission affirmed (with minor modifications) a Certificate
14 of Environmental Compatibility (“CEC”) for an electric transmission line corridor between TS-5
15 (now Sun Valley Substation) and TS-9 (now Morgan Substation) previously granted by the
16 Arizona Power Plant and Transmission Line Siting (“Siting Committee”), which included adoption
17 of an alternative route to that route proposed by APS along several miles adjacent to State Route
18 74 in the vicinity and east of 171st Avenue north of State Route 74. This alternative route became
19 known during evidentiary hearings before the Siting Committee in 2008 as “Alternative Route-3
20 North”; and, it was jointly proposed by Diamond Ventures, Peoria and Vistancia, LLC
21 (“Vistancia”) and supported with testimony from a number of witnesses, including expert witness
22

23
24 ¹ In connection with the foregoing, Diamond Ventures and Peoria also do not have a position on the questions of (i)
25 whether or not Arizona Public Service Company (“APS”) could lawfully acquire through condemnation that right-of-
26 way across Arizona State Land Department (“ASLD”) trust land contemplated in Decision No. 70850, which right-of-
27 way is the subject of one (1) or more of APS’ four (4) requested route modifications in the Instant Proceeding, or (ii)
28 whether or not ASLD may lawfully refuse to grant a right-of-way within an electric transmission line corridor
previously authorized by the Commission pursuant to A.R.S. § 40-360. et seq. In that regard, these questions were
raised in connection with pre-hearing pleadings and developments during the January 20-21, 2015 evidentiary hearing
in the Instant Proceeding. Diamond Ventures and Peoria do not know whether other parties may elect to brief these
questions.

1 testimony from (i) an electrical engineering consultant, (ii) two (2) environmental consultants and
2 (iii) a former management level employee of the United States Department of Interior's Bureau of
3 Land Management ("BLM"). In that regard, inter alia, "Alternative Route-3 North" was designed
4 to mitigate possible environmental impacts from the TS-5 to TS-9 Transmission Project on
5 Diamond Ventures' Saddleback Heights master-planned community and Vistancia's Vistancia
6 master-planned community, each of which had been approved by Peoria.

7 In connection with the foregoing, the Siting Committee's adoption of "Alternative Route-3
8 North" appears at page 5, line 25 through page 6, line 19 of the CEC granted by the Siting
9 Committee on December 29, 2008. Thereafter, in its March 12, 2009 Decision No. 70850, the
10 Commission revised the language appearing at page 6, lines 5 through 10 of the aforesaid CEC to
11 address a minor situation relating to the future transmission line's crossing of State Route 74, as
12 discussed at page 2, line 10 – page 3, line 1.5 of the Chairman of the Siting Committee's
13 December 29, 2008 Procedural Order and Notice of Filing, by means of which the CEC in Siting
14 Case No. 138 was transmitted to the Commission. However, the Commission's subsequent minor
15 revision of that portion of the CEC referred to above did not adversely affect the existing land
16 plans of Peoria or the interests of Diamond Ventures and Vistancia. To the contrary, the revised
17 language adopted by the Commission continued to expressly exclude the Village "E" portion of
18 Diamond Ventures' Saddleback Heights project from the authorized transmission corridor; and,
19 the remainder of Saddleback Heights was excluded by reason of the other (and unrevised) portion
20 of "Alternative Route-3 North," as described in the December 29, 2008 CEC.

21
22 **B. APS' Four (4) Requested Transmission Line Corridor Route Modifications Would**
23 **Not Appear to Adversely Impact the Interests of Diamond Ventures or Peoria.**

24 Based upon its review and analysis of APS' July 17, 2014 Application and supporting
25 Affidavits and attachments, as filed in the Instant Proceeding, Diamond Ventures concluded that
26 none of APS' four (4) requested transmission line corridor route modifications would affect
27 Diamond Ventures' interests in the Saddleback Heights master-planned community. Accordingly,
28

1 Diamond Ventures filed its aforementioned and above-quoted November 6, 2014 pre-hearing
2 Statement of Position. Although, it did not file a formal Statement of Position at that time, Peoria
3 had reached a similar conclusion and position with respect to its existing land plans and other
4 interests. Testimony subsequently presented at the January 20-21, 2015 evidentiary hearing before
5 Administrative Law Judge Scott M. Hesla appears to have confirmed the correctness of these
6 conclusions.

7 More specifically, APS witness Richard Stuhan indicated that none of APS' requested four
8 (4) transmission line corridor route modifications would directly or indirectly impact Diamond
9 Ventures' Saddleback Heights master-planned community.² Nor would any of APS' requested
10 modifications to the transmission line corridor language contained in Decision No. 70850 be
11 modified in a manner adverse to the interests of Diamond Ventures or Peoria as the same relate to
12 Saddleback Heights.³ In fact, the language change proposed by APS that relates to the route
13 corridor modification between 171st Avenue and 163rd Avenue south of State Route 74 includes
14 language similar to that approved by the Commission in Decision No. 70850, which expressly
15 excludes the Village "E" portion of Saddleback Heights. Further, and as previously noted, the
16 Commission's adoption of "Alternative Route-3 North" in effect excludes the remainder of
17 Saddleback Heights (i.e. then designated as Villages "A" through "D" and "F" and "G") from the
18 authorized corridor.⁴

19 III.

20 CONCLUSION

21 Accordingly, for the reasons discussed above, Diamond Ventures and Peoria have no
22 position with respect to either (i) the four (4) transmission line corridor route modifications or (ii)
23
24

25 ² Tr. 75, line 12 – Tr. 82, line 24 (Stuhan).

26 ³ Tr. 82, line 25 – Tr. 86, line 9 (Stuhan).

27 ⁴ The entirety of Saddleback Heights is located south of State Route 74. In that regard, in January 2014, BLM issued
28 a Record of Decision approving the transmission line corridor north of State Route 74 across the BLM land
contemplated by "Alternative Route-3 North"; and, in November 2014, BLM granted APS the necessary right-of-way
across BLM land. See Tr. 80, line 17 – Tr. 82, line 5 (Stuhan); and, Tr. 359, line 16 – Tr. 360, line 20 (Little).

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1 the two (2) CEC duration extensions requested by APS in its July 17, 2014 Application in the
2 Instant Proceeding.⁵

3
4 Dated this 5th day of March 2015.

5 Respectfully submitted,

6 Lawrence V. Robertson, Jr.

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9 Attorney for Diamond Ventures, Inc.

10 and

11 The City of Peoria, Arizona

12 Lawrence V. Robertson, Jr.

13 By: Stephen J. Burg
14 Office of Peoria City Attorney

15 The ORIGINAL and thirteen (13)
16 copies of the foregoing will be filed
17 the 5th day of March 2015 with

18 Docket Control
19 Arizona Corporation Commission
20 1200 West Washington Street
21 Phoenix, Arizona 85007

22 A copy of the foregoing will be
23 emailed/mailed this same date to:
24
25

26 ⁵ Subsequent to conclusion of the evidentiary hearing, settlement discussions resulted in a revision of proposed Route
27 Modification No. 2 in the general vicinity of Cloud Road between 235th Avenue and 211th Avenue. However, that
28 subsequent change (if approved by the Commission) also would not adversely impact the interests of Diamond
Ventures and Peoria, and thus they have no position on that possible route modification as well.

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